110TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 110–52
Part 1

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007

MARCH 19, 2007.—Ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1433]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1433) to provide for the treatment of the District of Columbia as a Congressional district for purposes of representation in the House of Representatives, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

59–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia House Voting Rights Act of 2007".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Over half a million people living in the District of Columbia, the capital of our democratic Nation, lack direct voting representation in the United States Senate and House of Representatives.

(2) District of Columbia residents have fought and died to defend our democracy in every war since the War of Independence.

(3) District of Columbia residents pay billions of dollars in Federal taxes each year.

(4) Our Nation is founded on the principles of "one person, one vote" and "government by the consent of the governed".

SEC. 3. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.

(a) REPRESENTATION IN HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Whereas the District of Columbia is drawn from the State of Maryland, notwithstanding any other provision of law, the District of Columbia shall be considered a Congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a), is amended by adding at the end the following new subsection:

"(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.".

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking "come into office;" and inserting the following: "come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);".

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking "the District of Columbia,".

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking "the District of Columbia,".

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking "the District of Columbia,".

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office for the One Hundred Tenth Congress.

SEC. 4. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the One Hundred Tenth Congress and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including any Members representing the District of Columbia pursuant to section 3(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking "the then existing number of Representatives" and inserting "the number of Representatives established with respect to the One Hundred Tenth Congress".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) SPECIAL RULES FOR PERIOD PRIOR TO 2012 REAPPORTIONMENT.—

(1) TRANSMITTAL OF REVISED STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22(a) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a(a)), to take into account this Act and the amendments made by this Act.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives, in accordance with section 22(b) of such Act (2 U.S.C. 2a(b)), shall send to the executive of each State a certificate of the number of Representatives to which such State is entitled under section 22 of such Act, and shall submit a report to the Speaker of the House of Representatives identifying the State (other than the District of Columbia) which is entitled to one additional Representative pursuant to this section.

(3) REQUIREMENTS FOR ELECTION OF ADDITIONAL MEMBER.—During the One Hundred Tenth Congress, the One Hundred Eleventh Congress, and the One Hundred Twelfth Congress—

(A) notwithstanding the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c), the additional Representative to which the State identified by the Clerk of the House of Representatives in the report submitted under paragraph (2) is entitled shall be elected from the State at large; and

(B) the other Representatives to which such State is entitled shall be elected on the basis of the Congressional districts in effect in the State for the One Hundred Ninth Congress.

(d) SEATING OF NEW MEMBERS.—The first Representative from the District of Columbia and the first additional Representative to which the State identified by the Clerk of the House of Representatives in the report submitted under subsection (c) is entitled shall each be sworn in and seated as Members of the House of Representatives on the same date.

SEC. 5. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.

(a) REPEAL OF OFFICE.—

(1) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office for the One Hundred Tenth Congress.

(b) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(1) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking "the Delegate to the House of Representatives," and inserting "the Representative in the Congress,".

(2) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(A) by striking paragraph (6); and

(B) in paragraph (13), by striking "the Delegate to Congress for the District of Columbia," and inserting "the Representative in the Congress,".

(3) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(A) in the heading, by striking "Delegate" and inserting "Representative"; and

(B) by striking "Delegate," each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting "Representative in the Congress,".

(4) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(A) in subsection (a)(3)(A)—

(i) by striking "or section 206(a) of the District of Columbia Delegate Act", and

(ii) by striking "the office of Delegate to the House of Representatives" and inserting "the office of Representative in the Congress";

(B) in subsection (d)(1), by striking "Delegate," each place it appears; and

(C) in subsection (d)(2)—

(i) by striking "(A) In the event" and all that follows through "term of office," and inserting "In the event that a vacancy occurs in the office of Representative in the Congress before May 1 of the last year of the Representative's term of office," and

(ii) by striking subparagraph (B).

(5) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking "Delegate to the House of Representatives," and inserting "Representative in the Congress,".

(6) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking "Delegate," and inserting "Representative in the Congress,".

(7) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking "the Delegate to the Congress from the District of Columbia" and inserting "the Representative in the Congress".

SEC. 6. REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE.

(a) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended as follows:

(1) By striking "offices of Senator and Representative" each place it appears in subsection (d) and inserting "office of Senator".

(2) In subsection (d)(2)—

(A) by striking "a Representative or";

(B) by striking "the Representative or"; and

(C) by striking "Representative shall be elected for a 2-year term and each".

(3) In subsection (d)(3)(A), by striking "and 1 United States Representative".

(4) By striking "Representative or" each place it appears in subsections (e), (f), (g), and (h).

(5) By striking "Representative's or" each place it appears in subsections (g) and (h).

(b) CONFORMING AMENDMENTS.—

(1) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended—

(A) in subsection (a)—

(i) by striking "27 voting members" and inserting "26 voting members";

(ii) by adding "and" at the end of paragraph (5); and

(iii) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and

(B) in subsection (a–1)(1), by striking subparagraph (H).

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking "and House".

(3) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is amended by striking "or Representative" each place it appears.

(4) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by striking "and United States Representative".

(5) DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended—

(A) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking "United States Senator and Representative," and inserting "United States Senator,"; and

(B) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking "United States Representative or".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date on which a Representative from the District of Columbia takes office for the One Hundred Tenth Congress.

SEC. 7. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act, or any amendment made by this Act, is declared or held invalid or unenforceable, the remaining provisions of this Act and any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

PURPOSE AND SUMMARY

H.R. 1433, the District of Columbia House Voting Rights Act of 2007, was introduced on March 9, 2007, by Congresswoman Eleanor Holmes Norton and Reps. Tom Davis, John Conyers Jr., Todd Russell Platts, Henry A. Waxman, Christopher Shays, Steny H. Hoyer, Darrell E. Issa, Jerrold Nadler, Jon C. Porter, and Jim Matheson. The legislation treats the District of Columbia as a congressional district for the purpose of representation in the House of Representatives and increases the size of the House by two seats. One of the newly created seats will go to the District of Columbia and the other will go to the next state in line to get a congressional seat based on the 2000 Decennial Census.

BACKGROUND AND NEED FOR LEGISLATION

There are approximately 600,000 people living in the District of Columbia. District residents pay billions of dollars in federal taxes. They proudly serve in the military and have sacrificed their lives in every war since the American Revolution. Many District residents dedicate their service to working for the federal government. Yet these Americans have no vote in Congress.

H.R. 1433, the District of Columbia House Voting Rights Act, designates the District of Columbia as a congressional district for purposes of representation in the House of Representatives. The bill also increases the size of the House by two seats, with one seat designated for the District of Columbia and the other designated for the next state in line to get a congressional seat. Based on the apportionment conducted pursuant to the 2000 Decennial Census, that state is Utah. This bill follows the tradition of increasing representation in the House in a politically neutral way.

This bill prevents partisan gerrymandering by creating the new seat for Utah as an at-large seat and by ensuring that Utah does not redistrict its other congressional seats until apportionment is conducted following the 2010 census.

This bill also contains a nonseverability clause providing that if a court holds or declares one section of this bill invalid or unenforceable, all other sections will be invalid or unenforceable. Therefore, a court cannot strike down any provision in the bill, or issue a preliminary or permanent injunction preventing enforcement of any provision in the bill, without striking down or enjoining all provisions of the bill. Simply put, if the House seat for the District of Columbia or the House seat for Utah is blocked by a court order, whether preliminary or final, the other House seat shall also be blocked to preserve the principle of political neutrality that underlies the legislation.

LEGISLATIVE HISTORY

H.R. 1433 was introduced on March 9, 2007, and referred to the Committee on Oversight and Government Reform. Similar legislation, H.R. 5388, the District of Columbia Fair and Equal House Voting Rights Act of 2006, was introduced in the 109th Congress and reported by the Committee on a 29–4 rollcall vote.

The Committee held a markup to consider H.R. 1433 on March 13, 2007, and ordered the bill reported on a roll call vote of 24–5.

SECTION-BY-SECTION

Section 1. Short title

This section provides that the short title of H.R. 1433 is the "District of Columbia House Voting Rights Act of 2007."

Section 2. Findings

This section includes findings of Congress.

Section 3. Treatment of District of Columbia as congressional district

Section (a) grants the District of Columbia a vote in the House of Representatives by providing that the District be considered a congressional district for purposes of representation in the House of Representatives and not a state for purposes of Senate representation.

Section (b) provides that the District of Columbia only will receive one seat under reapportionment and clarifies that the number of presidential electors from the District of Columbia will continue to be subject to the twenty-third amendment to the Constitution which grants the District the right to choose electors for President and Vice President.

Section (c) contains conforming amendments regarding service academies.

Section 4. Increase in membership of House of Representatives

Section (a) increases the size of the House of Representatives by two members, from 435 to 437, and provides that one of the newly created seats will go to the District of Columbia.

Section (b) provides that the other seat will go to the next state in line under the apportionment formula. Based on the 2000 Decennial Census and apportionment calculations, Utah will get the second seat.

Section (c) requires the new Utah seat to be an at-large seat through the 112th Congress. Also, any other representatives elected from Utah must be elected based on Utah's congressional districts as they existed in the 109th Congress through the 112th Congress.

Section (d) requires that both of the members elected to the newly created seats be sworn in and seated on the same day.

Section 5. Repeal of Office of District of Columbia Delegate

This section repeals the Office of the District of Columbia Delegate. Providing the District with a voting representative in Congress negates the need for a non-voting congressional delegate.

Section 6. Repeal of Office of Statehood Representative

This section ends the Office of Statehood Representative, but leaves intact the Office of Statehood Senator.

Section 7. Nonseverability of provisions

This section specifies that if a court holds or declares one section of this bill invalid or unenforceable, all other sections will be invalid or unenforceable. Under this language, no section of this legislation can have legal effect unless the entire bill has legal effect.

If any section of the bill should be subject to an injunction, whether preliminary or permanent, the entire bill must be subject to the same injunction. This section clarifies that any result that would grant a seat to Utah and not the District is counter to the intent of Congress and vice-versa.

EXPLANATION OF AMENDMENTS

Five amendments were considered by the Committee:

Mr. Westmoreland offered an amendment, passed by voice vote, to clarify that the District of Columbia shall not be considered a state for purposes of representation in the Senate.

Mr. Issa offered an amendment, passed by voice vote, recognizing that the District of Columbia is drawn from the State of Maryland.

Mr. McHenry offered an amendment to cede the District of Columbia back to the state of Maryland. The amendment was ruled not germane. Mr. McHenry requested an appeal of the ruling of the Chair. The Committee voted to sustain the ruling of the Chair by a 17–5 rollcall vote.

Mr. McHenry offered an amendment to prevent the bill from taking effect until a Constitutional amendment is ratified giving Congress the authority to enact legislation granting representation in Congress. The amendment was ruled not germane.

Mr. Westmoreland offered an amendment, rejected on a 4–22 rollcall vote, to require that if there is no "partisan balance" in added representation then the bill is null and void.

COMMITTEE CONSIDERATION

On Tuesday, March 13, 2007, the Committee met in open session and favorably ordered the bill, H.R. 1433, to be reported, by a rollcall vote.

ROLLCALL VOTES

Roll Call

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

No: Final Passage of H.R. 1433 Date: 3/13/07

DESCRIPTION: To Provide for the Treatment of the District of Columbia as a Congressional District for the purposes of representation in the House of Representatives, and for other purposes.

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *Chairman)*	x			MR. DAVIS (VA) *(Ranking)*	x		
MR. LANTOS				MR. BURTON	x		
MR. TOWNS	x			MR. SHAYS	x		
MR. KANJORSKI				MR. McHUGH			
MS. MALONEY	x			MR. MICA		x	
MR. CUMMINGS	x			MR. SOUDER		x	
MR. KUCINICH	x			MR. PLATTS	x		
MR. DAVIS (IL)	x			MR. CANNON	x		
MR. TIERNEY	x			MR. DUNCAN			
MR. CLAY	x			MR. TURNER			
MS. WATSON	x			MR. ISSA	x		
MR. LYNCH	x			MR. MARCHANT			
MR. HIGGINS				MR. WESTMORELAND		x	
MR. YARMUTH	x			MR. McHENRY		x	
MR. BRALEY	x			MS. FOXX		x	
MS. NORTON	x			MR. BILBRAY			
MS. McCOLLUM				MR. SALI			
MR. COOPER				(Vacancy)			
MR. Van HOLLEN	x						
MR. HODES	x						
MR. MURPHY (CT)	x						
MR. SARBANES	x						
MR. WELCH	x						

Totals: Ayes 24 Nays 5 Present

Roll Call

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

No: Westmoreland Amendment #2 Date: 3/13/07

DESCRIPTION: H.R. 1433

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *Chairman)*	x			MR. DAVIS (VA) *(Ranking)*		x	
MR. LANTOS				MR. BURTON		x	
MR. TOWNS	x			MR. SHAYS		x	
MR. KANJORSKI				MR. McHUGH			
MS. MALONEY				MR. MICA	x		
MR. CUMMINGS	x			MR. SOUDER		x	
MR. KUCINICH	x			MR. PLATTS		x	
MR. DAVIS (IL)	x			MR. CANNON		x	
MR. TIERNEY	x			MR. DUNCAN			
MR. CLAY	x			MR. TURNER		x	
MS. WATSON	x			MR. ISSA			
MR. LYNCH				MR. MARCHANT			
MR. HIGGINS				MR. WESTMORELAND	x		
MR. YARMUTH	x			MR. McHENRY	x		
MR. BRALEY	x			MS. FOXX	x		
MS. NORTON	x			MR. BILBRAY			
MS. McCOLLUM				MR. SALI			
MR. COOPER				(Vacancy)			
MR. Van HOLLEN	x						
MR. HODES	x						
MR. MURPHY (CT)	x						
MR. SARBANES							
MR. WELCH	x						

Totals: Ayes 4 Nays 22 Present _____

Failed on Roll Call Vote

ROLL CALL

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

Sustained the Ruling of the Chair

No: McHenry Amendment #1 Date: 3/13/07

DESCRIPTION: H.R. 1433

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *Chairman)*	X			MR. DAVIS (VA) *(Ranking)*	X		
MR. LANTOS				MR. BURTON		X	
MR. TOWNS				MR. SHAYS	X		
MR. KANJORSKI				MR. McHUGH			
MS. MALONEY	X			MR. MICA			
MR. CUMMINGS	X			MR. SOUDER		X	
MR. KUCINICH	X			MR. PLATTS	X		
MR. DAVIS (IL)	X			MR. CANNON	X		
MR. TIERNEY				MR. DUNCAN			
MR. CLAY	X			MR. TURNER			
MS. WATSON	X			MR. ISSA			
MR. LYNCH	X			MR. MARCHANT			
MR. HIGGINS				MR. WESTMORELAND		X	
MR. YARMUTH	X			MR. McHENRY		X	
MR. BRALEY	X			MS. FOXX		X	
MS. NORTON	X			MR. BILBRAY			
MS. McCOLLUM				MR. SALI			
MR. COOPER				(Vacancy)			
MR. Van HOLLEN							
MR. HODES	X						
MR. MURPHY (CT)	X						
MR. SARBANES							
MR. WELCH							

Totals: Ayes 17 Nays 5 Present

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations.

H.R. 1433 applies to the legislative branch in that it increases the size of the House of Representatives by two seats. This bill does not relate to terms and conditions of employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including that there are approximately 600,000 people living in the District of Columbia and they do not have representation in Congress.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including the consideration of the District of Columbia as a congressional district for the purpose of representation in the House of Representatives and increasing the size of the House by two seats.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 1433. Article I, Section 8, Clauses 17 and 18, Article I, Section 4, Clause 1, and Article I, Section 2, Clause 1 of the Constitution of the United States grant the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 1433 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1433. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1433 from the Director of the Congressional Budget Office:

MARCH 16, 2007.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1433, the District of Columbia House Voting Rights Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for federal costs), and Melissa Merrell (for the state and local impact).

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 1433—District of Columbia House Voting Rights Act of 2007

Summary: H.R. 1433 would expand the number of Members in the House of Representatives from 435 to 437 during the 110th Congress. The legislation would provide the District of Columbia with one Representative and add one new at-large Member (after a special election). Under H.R. 1433, the new at-large seat would initially be assigned to the state of Utah and then would be reallocated based on the next Congressional apportionment following the 2010 census.

CBO estimates that enacting the bill would increase direct spending by about $200,000 in 2008 and by about $2.5 million over the 2008–2017 period. In addition, implementing the bill would have discretionary costs of about $1 million in 2008 and about $9

million over the 2008–2012 period, assuming the availability of the appropriated funds.

H.R. 1433 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs would not be significant and would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the federal Government: The estimated budgetary impact of H.R. 1433 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—									
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
CHANGES IN DIRECT SPENDING										
New Representative's Salary and Benefits:										
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*
Estimated Outlays	*	*	*	*	*	*	*	*	*	*
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
New Representative's Office and Administrative Expenses:										
Estimated Authorization Level	1	2	2	2	2	2	2	2	2	2
Estimated Outlays	1	2	2	2	2	2	2	2	2	2

Note.—* = less than $500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted before the start of fiscal year 2008, that Utah will hold a special election before or early in the second session of the 110th Congress, and that spending will follow historical patterns for Congressional office spending.

The legislation would permanently expand the number of Members in the House of Representatives by two to 437 Members. The new representatives would take office on the same day. One new Member would represent the District of Columbia and the other would be a Representative at-large for the state of Utah until the next apportionment based on the 2010 census. The District of Columbia currently has a nonvoting delegate to the House of Representatives and would not hold a special election. H.R. 1433 would establish voting representation for the conversion of the District's delegate to Representative and would not add significant costs since the position is already funded with the same salary and administrative support as other Representatives.

Direct spending

Enacting H.R. 1433 would increase direct spending for the salary and associated benefits for the new at-large Representative. CBO estimates that the increase in direct spending for the Congressional salary and benefits would be about $2.5 million over the 2008–2017 period.

That estimate assumes that the current Congressional salary of $165,200 would be adjusted for inflation. With benefits, the 2008 cost would be about $200,000.

Spending subject to appropriation

Based on the current administrative and expense allowances available for Members and other typical Congressional office costs, CBO estimates that the addition of a new Member would cost about $1 million in fiscal year 2008 and about $9 million over the 2008–2012 period, subject to the availability of appropriated funds.

Estimated impact on state, local, and tribal governments: H.R. 1433 contains an intergovernmental mandate as defined in UMRA because it would temporarily preempt laws in the state of Utah that govern the election of Members of the House of Representatives. The bill would require the state to elect an additional Member of the House using a statewide election. The state may derive benefits from having an additional Member of the House of Representatives. However, Utah could incur some costs to hold a special election in 2007 or 2008 and would incur small marginal costs to elect the additional Member through the 2010 election cycle. CBO estimates that those costs would not be significant and would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation.)

Estimated impact on the private sector: The legislation contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On March 16, 2007, CBO also provided a cost estimate for H.R. 1433 as ordered reported by the House Committee on the Judiciary on March 15, 2007. The two versions of the bill are similar, and our cost estimates are the same.

Estimate prepared by: Federal Costs: Matthew Pickford. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private-Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 22 OF THE ACT OF JUNE 18, 1929

AN ACT To provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress.

SEC. 22. (a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of [the then existing number of Representatives] *the number of Representatives established with respect to the One Hundred Tenth Congress* by the method known as

the method of equal proportions, no State to receive less than one Member.

* * * * * * *

(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.

SECTION 3 OF TITLE 3, UNITED STATES CODE

NUMBER OF ELECTORS

§ 3. The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen [come into office;] *come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);* except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle B—Army

* * * * * * *

PART III—TRAINING

* * * * * * *

CHAPTER 403—UNITED STATES MILITARY ACADEMY

* * * * * * *

§ 4342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Army under subsection (j). Subject to that limitation, cadets are selected as follows:

(1) * * *

* * * * * * *

[(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.]

* * * * * * *

(f) Each candidate for admission nominated under clauses (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in [the

District of Columbia,] Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * * * *

Subtitle C—Navy and Marine Corps

* * * * * * *

PART III—EDUCATION AND TRAINING

* * * * * * *

CHAPTER 603—UNITED STATES NAVAL ACADEMY

* * * * * * *

§ 6954. Midshipmen: number

(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Navy under subsection (h). Subject to that limitation, midshipmen are selected as follows:

(1) * * *

* * * * * * *

[(5) Five from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.]

* * * * * * *

§ 6958. Midshipmen: qualifications for admission

(a) * * *

(b) Each candidate for admission nominated under clauses (3) through (9) of section 6954(a) of this title must be domiciled in the State, or in the congressional district, from which he is nominated, or in [the District of Columbia,] Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * * * *

Subtitle D—Air Force

* * * * * * *

PART III—TRAINING

* * * * * * *

CHAPTER 903—UNITED STATES AIR FORCE ACADEMY

* * * * * * *

§ 9342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of Air Force Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be pre-

scribed by the Secretary of the Air Force under subsection (j). Subject to that limitation, Air Force Cadets are selected as follows:

(1) * * *

* * * * * * *

[(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.]

* * * * * * *

(f) Each candidate for admission nominated under clauses (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in [the District of Columbia,] Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

* * * * * * *

DISTRICT OF COLUMBIA DELEGATE ACT

TITLE II—DISTRICT OF COLUMBIA DELEGATE TO THE HOUSE OF REPRESENTATIVES

SHORT TITLE

SEC. 201. This title may be cited as the "District of Columbia Delegate Act".

[DELEGATE TO THE HOUSE OF REPRESENTATIVES

[SEC. 202. (a) The people of the District of Columbia shall be represented in the House of Representatives by a Delegate, to be known as the "Delegate to the House of Representatives from the District of Columbia", who shall be elected by the voters of the District of Columbia in accordance with the District of Columbia Election Act. The Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting, shall have all the privileges granted a Representative by section 6 of Article I of the Constitution, and shall be subject to the same restrictions and regulations as are imposed by law or rules on Representatives. The Delegate shall be elected to serve during each Congress.

[(b) No individual may hold the office of Delegate to the House of Representatives from the District of Columbia unless on the date of his election—

[(1) he is a qualified elector (as that term is defined in section 2(2) of the District of Columbia Election Act) of the District of Columbia;

[(2) he is at least twenty-five years of age;

[(3) he holds no other paid public office; and

[(4) he has resided in the District of Columbia continuously since the beginning of the three-year period ending on such date.

He shall forfeit his office upon failure to maintain the qualifications required by this subsection.]

* * * * * * *

[OTHER PROVISIONS AND AMENDMENTS RELATING TO THE ESTABLISHMENT OF A DELEGATE TO THE HOUSE OF REPRESENTATIVES FROM THE DISTRICT OF COLUMBIA

[SEC. 204. (a) The provisions of law which appear in—

[(1) section 25 (relating to oath of office),

[(2) section 31 (relating to compensation),

[(3) section 34 (relating to payment of compensation),

[(4) section 35 (relating to payment of compensation),

[(5) section 37 (relating to payment of compensation),

[(6) section 38a (relating to compensation),

[(7) section 39 (relating to deductions for absence),

[(8) section 40 (relating to deductions for withdrawal),

[(9) section 40a (relating to deductions for delinquent indebtedness),

[(10) section 41 (relating to prohibition on allowance for newspapers),

[(11) section 42c (relating to postage allowance),

[(12) section 46b (relating to stationery allowance),

[(13) section 46b–1 (relating to stationery allowance),

[(14) section 46b–2 (relating to stationery allowance),

[(15) section 46g (relating to telephone, telegraph, and radiotelegraph allowance),

[(16) section 47 (relating to payment of compensation),

[(17) section 48 (relating to payment of compensation),

[(18) section 49 (relating to payment of compensation),

[(19) section 50 (relating to payment of compensation),

[(20) section 54 (relating to provision of United States Code Annotated or Federal Code Annotated),

[(21) section 60g–1 (relating to clerk hire),

[(22) section 60g–2(a) (relating to interns),

[(23) section 80 (relating to payment of compensation),

[(24) section 81 (relating to payment of compensation),

[(25) section 82 (relating to payment of compensation),

[(26) section 92 (relating to clerk hire),

[(27) section 92b (relating to pay of clerical assistants),

[(28) section 112e (relating to electrical and mechanical office equipment),

[(29) section 122 (relating to office space in the District of Columbia), and

[(30) section 123b (relating to use of House Recording Studio),

of title 2 of the United States Code shall apply with respect to the Delegate to the House of Representatives from the District of Columbia in the same manner and to the same extent as they apply with respect to a Representative. The Federal Corrupt Practices Act and the Federal Contested Election Act shall apply with respect to the Delegate to the House of Representatives from the District of Columbia in the same manner and to the same extent as they apply with respect to a Representative.

[(b) Section 2106 of title 5 of the United States Code is amended by inserting "a Delegate from the District of Columbia," immediately after "House of Representatives,".

[(c) Sections 4342(a)(5), 6954(a)(5), and 9342(a)(5) of title 10 of the United States Code are each amended by striking out "by the

Commissioner of that District" and inserting in lieu thereof "by the Delegate to the House of Representatives from the District of Columbia".

[(d)(1) Section 201(a) of title 18 of the United States Code is amended by inserting "the Delegate from the District of Columbia," immediately after "Member of Congress,".

[(2) Sections 203(a)(1) and 204 of title 18 of the United States Code are each amended by inserting "Delegate from the District of Columbia, Delegate Elect from the District of Columbia," immediately after "Member of Congress Elect,".

[(3) Section 203(b) of title 18 of the United States Code is amended by inserting "Delegate," immediately after "Member,".

[(4) The last undesignated paragraph of section 591 of title 18 of the United States Code is amended by inserting "the District of Columbia and" immediately after "includes".

[(5) Section 594 of title 18 of the United States Code is amended (1) by striking out "or" immediately after "Senate,", and (2) by striking out "Delegates or Commissioners from the Territories and possessions" and inserting in lieu thereof "Delegate from the District of Columbia, or Resident Commissioner".

[(6) Section 595 of title 18 of the United States Code is amended by striking out "or Delegate or Resident Commissioner from any Territory or Possession" and inserting in lieu thereof "Delegate from the District of Columbia, or Resident Commissioner".

[(e) Section 11(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973i(c)) is amended by striking out "or Delegates or Commissioners from the territories or possessions" and inserting in lieu thereof "Delegate from the District of Columbia".

[(f) The second sentence in the second paragraph of section 7 of the District of Columbia Alcoholic Beverage Control Act (D.C. Code, sec. 25–107) is amended by striking out "the presidential election" and inserting in lieu thereof "any election".]

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DISTRICT OF COLUMBIA OFFICIAL CODE

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TITLE 1—GOVERNMENT ORGANIZATION

* * * * * * *

CHAPTER 1—DISTRICT OF COLUMBIA GOVERNMENT DEVELOPMENT

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SUBCHAPTER II—STATEHOOD

* * * * * * *

PART A—CONSTITUTIONAL CONVENTION INITIATIVE

* * * * * * *

SUBPART I—GENERAL

* * * * * * *

§ 1—123. Call of convention; duties of convention; adoption of constitution; rejection of constitution; election of Senator and Representative.

(a) * * *

* * * * * * *

(d)(1) Following the approval of a proposed constitution by a majority of the electors voting thereon, there shall be held an election of candidates for the [offices of Senator and Representative] *office of Senator* from the new state. Such election shall be partisan and shall be held at the next regularly scheduled primary and general elections following certification by the District of Columbia Board of Elections and Ethics that the proposed constitution has been approved by a majority of the electors voting thereon. In the event that the proposed constitution is approved by the electors at the general election to be held in November, 1982, the primary and general elections authorized by this paragraph shall be held in September, 1990, and November, 1990, respectively.

(2) The qualifications for candidates for the [offices of Senator and Representative] *office of Senator* shall conform with the provisions of Article I of the United States Constitution and the primary and general elections shall follow the same electoral procedures as provided for candidates for nonvoting Delegate of the District of Columbia in the District of Columbia Election Code of 1955, subchapter I of Chapter 10 of this title. The term of the 1st Representative elected pursuant to this initiative shall begin on January 2, 1991, and shall expire on January 2, 1993. The terms of the 1st Senators elected pursuant to this initiative shall begin on January 2, 1991, and shall expire on January 2, 1997, and January 2, 1995, respectively. At the initial election, the candidate for Senator receiving the highest number of votes will receive the longer term and the candidate receiving the second highest number of votes will receive the shorter term. A primary and a general election to replace [a Representative or] a Senator whose term is about to expire shall be held in September and in November respectively, of the year preceding the year during which the term of [the Representative or] the Senator expires. Each [Representative shall be elected for a 2-year term and each] Senator shall be elected for a 6-year term as prescribed by the Constitution of the United States.

(3) The District of Columbia Board of Elections and Ethics shall:

(A) Conduct elections to fill the positions of 2 United States Senators [and 1 United States Representative]; and

* * * * * * *

(e) A [Representative or] Senator elected pursuant to this subchapter shall be a public official as defined in § 1—1106.02(a), and subscribe to the oath or affirmation of office provided for in § 1—604.08.

(f) A [Representative or] Senator:

(1) * * *

* * * * * * *

(g)(1) A [Representative or] Senator may solicit and receive contributions to support the purposes and operations of the [Representative's or] Senator's public office. A [Representative or] Senator may accept services, monies, gifts, endowments, donations, or bequests. A [Representative or] Senator shall establish a District of Columbia statehood fund in 1 or more financial institutions in the District of Columbia. There shall be deposited in each fund any gift or contribution in whatever form, and any monies not included in annual Congressional appropriations. A [Representative or] Senator is authorized to administer the [Representative's or] Senator's respective fund in any manner the [Representative or] Senator deems wise and prudent, provided that the administration is lawful, in accordance with the fiduciary responsibilities of public office, and does not impose any financial burden on the District of Columbia.

(2) Contributions may be expended for the salary, office, or other expenses necessary to support the purposes and operations of the public office of a [Representative or] Senator, however, each [Representative or] Senator shall receive compensation no greater than the compensation of the Chairman of the Council of the District of Columbia, as provided in § 1—204.03 and § 1—611.09.

(3) Each [Representative or] Senator shall file with the Director of Campaign Finance a quarterly report of all contributions received and expenditures made in accordance with paragraph (1) of this subsection. No campaign activities related to election or reelection to the office of [Representative or] Senator shall be conducted nor shall expenditures for campaign literature or paraphernalia be authorized under paragraph (1) of this subsection.

(4) The recordkeeping requirements of subchapter I of Chapter 11 of this title, shall apply to contributions and expenditures made under paragraph (1) of this subsection.

(5) Upon expiration of a [Representative's or] Senator's term of office and where the [Representative or] Senator has not been reelected, the [Representative's or] Senator's statehood fund, established in accordance with paragraph (1) of this subsection, shall be dissolved and any excess funds shall be used to retire the [Representative's or] Senator's debts for salary, office, or other expenses necessary to support the purposes and operation of the public office of the [Representative or] Senator. Any remaining funds shall be donated to an organization operating in the District of Columbia as a not-for-profit organization within the meaning of section 501(c) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. 501(c)).

(h) A [Representative or] Senator elected pursuant to subsection (d) of this section, shall be subject to recall pursuant to § 1—1001.18, during the period of the [Representative's or] Senator's service prior to the admission of the proposed new state into the union.

* * * * * * *

§ 1—125. Statehood Commission.

(a) The Statehood Commission shall consist of [27] *26* voting members appointed in the following manner:

(1) * * *

* * * * * * *

(5) The United States Senators shall each appoint 1 member; *and*

[(6) The United States Representative shall appoint 1 member; and**]**

[(7)**]** *(6)* The Mayor, the Chairman of the Council, and the Councilmember whose purview the Statehood Commission comes within shall be non-voting members of the Commission.

(a-1)(1) Notwithstanding any other provision of law, members serving unexpired terms on August 26, 1994, may continue to serve until appointments or reappointments are confirmed. Appointments or reappointments shall be made immediately after August 26, 1994, in the following manner:

(A) * * *

* * * * * * *

[(H) The United States Representative shall appoint 1 member for a 2 year term.**]**

* * * * * * *

§ 1—127. Appropriations.

There is authorized to be appropriated from the General Fund of the District of Columbia an amount for the salaries and office expenses of the elected representatives to the Senate **[**and House**]** referred to in 1—123(d) during the period of their service prior to the admission of the proposed new state into the union.

* * * * * * *

PART B—HONORARIA LIMITATIONS

§ 1—131. Application of honoraria limitations.

Notwithstanding the provisions of 1—135, the honoraria limitations imposed by part H of subchapter I of Chapter 11 of this title shall apply to a Senator **[**or Representative**]** elected pursuant to 1—123(d)(1), only if the salary of the Senator **[**or Representative**]** is supported by public revenues.

* * * * * * *

PART C—CAMPAIGN FINANCE REFORM

§ 1—135. Application of Campaign Finance Reform and Conflict of Interest Act.

All provisions of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, subchapter I of Chapter 11 of this title, which apply to the election of and service of the Mayor of the District of Columbia shall apply to persons who are candidates or elected to serve as United States Senators **[**and United States Representative**]** pursuant to this initiative.

* * * * * * *

CHAPTER 10. ELECTIONS

* * * * * * *

SUBCHAPTER I. REGULATION OF ELECTIONS

§ 1—1001.01. Election of electors.

In the District of Columbia electors of President and Vice President of the United States, [the Delegate to the House of Representatives,] *the Representative in the Congress,* the members of the Board of Education, the members of the Council of the District of Columbia, the Mayor and the following officials of political parties in the District of Columbia shall be elected as provided in this subchapter:

(1) * * *

* * * * * * *

§ 1—1001.02. Definitions.

For the purposes of this subchapter:

(1) * * *

* * * * * * *

[(6) The term "Delegate" means the Delegate to the House of Representatives from the District of Columbia.]

* * * * * * *

(13) The term "elected official" means the Mayor, the Chairman and members of the Council, the President and members of the Board of Education, [the Delegate to Congress for the District of Columbia, United States Senator and Representative,] *the Representative in the Congress, United States Senator,* and advisory neighborhood commissioners of the District of Columbia.

* * * * * * *

§ 1—1001.08. Qualifications of candidates and electors; nomination and election of [Delegate] *Representative*, Mayor, Chairman, members of Council, and members of Board of Education; petition requirements; arrangement of ballot.

(a) * * *

* * * * * * *

(h)(1)(A) The [Delegate,] *Representative in the Congress,* Mayor, Chairman of the Council of the District of Columbia and the 4 at-large members of the Council shall be elected by the registered qualified electors of the District of Columbia in a general election. Each candidate for the office of [Delegate,] *Representative in the Congress,* Mayor, Chairman of the Council of the District of Columbia, and at-large members of the Council in any general election shall, except as otherwise provided in subsection (j) of this section and 1-1001.10(d), have been elected by the registered qualified electors of the District as such candidate by the next preceding primary election.

* * * * * * *

(i)(1) Each individual in a primary election for candidate for the office of [Delegate,] *Representative in the Congress,* Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition:

(A) * * *

* * * * * * *

(j)(1) A duly qualified candidate for the office of [Delegate,] *Representative in the Congress,* Mayor, Chairman of the Council, or member of the Council, may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by petition:

(A) * * *

(B) In the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-large member), signed by 500 voters who are duly registered under 1-1001.07 in the ward from which the candidate seeks election; and in the case of a person who is a candidate for the office of [Delegate,] *Representative in the Congress,* Mayor, Chairman of the Council, or at-large member of the Council, signed by duly registered voters equal in number to 1 1/2 per centum of the total number of registered voters in the District, as shown by the records of the Board as of 123 days before the date of such election, or by 3,000 persons duly registered under 1-1001.07, whichever is less. No signatures on such a petition may be counted which have been made on such petition more than 123 days before the date of such election.

* * * * * * *

§ 1—1001.10. Dates for holding elections; votes cast for President and Vice President counted as votes for presidential electors; voting hours; tie votes; filling vacancy where elected official dies, resigns, or becomes unable to serve.

(a)(1) * * *

* * * * * * *

(3)(A) Except as otherwise provided in the case of special elections under this subchapter [or section 206(a) of the District of Columbia Delegate Act], primary elections of each political party for [the office of Delegate to the House of Representatives] *the office of Representative in the Congress* shall be held on the 1st Tuesday after the 2nd Monday in September of each even-numbered year; and general elections for such office shall be held on the Tuesday next after the 1st Monday in November of each even-numbered year.

* * * * * * *

(d)(1) In the event that any official, other than [Delegate,] Mayor, member of the Council, member of the Board of Education, or winner of a primary election for the office of [Delegate,] Mayor, or member of the Council, elected pursuant to this subchapter dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this subchapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of the term shall be chosen pursuant to the rules of the duly authorized party committee, except that the successor shall have the qualifications required by this subchapter for the office.

(2)[(A) In the event that a vacancy occurs in the office of Delegate before May 1 of the last year of the Delegate's term of office,] *In the event that a vacancy occurs in the office of Representative in the Congress before May 1 of the last year of the Representative's term of office,* the Board shall hold a special election to fill the unexpired term. The special election shall be held on the first Tuesday that occurs more than 114 days after the date on which the vacancy is certified by the Board unless the Board determines that the vacancy could be filled more practicably in a special election held on the same day as the next District-wide special, primary, or general election that is to occur within 60 days of the date on which the special election would otherwise have been held under the provisions of this subsection. The person elected to fill the vacancy in the office of Delegate shall take office the day on which the Board certifies his or her election.

[(B) In the event that a vacancy occurs in the office of Delegate on or after May 1 of the last year of the Delegate's term of office, the Mayor shall appoint a successor to complete the remainder of the term of office.]

(3) In the event of a vacancy in the office of [United States Representative or] United States Senator elected pursuant to § 1—123 and that vacancy cannot be filled pursuant to paragraph (1) of this subsection, the Mayor shall appoint, with the advice and consent of the Council, a successor to complete the remainder of the term of office.

* * * * * * *

§1—1001.11. Recount; judicial review of election.

(a)(1) * * *

(2) If in any election for President and Vice President of the United States, [Delegate to the House of Representatives,] *Representative in the Congress,* Mayor, Chairman of the Council, member of the Council, President of the Board of Education, or member of the Board of Education, the results certified by the Board show a margin of victory for a candidate that is less than one percent of the total votes cast for the office, the Board shall conduct a recount. The cost of a recount conducted pursuant to this paragraph shall not be charged to any candidate.

* * * * * * *

§1—1001.15. Candidacy for more than 1 office prohibited; multiple nominations; candidacy of officeholder for another office restricted.

(a) * * *

(b) Notwithstanding the provisions of subsection (a) of this section, a person holding the office of Mayor, [Delegate,] *Representative in the Congress,* Chairman or member of the Council, or member of the Board of Education shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election. In the event that said person is elected in a general election to the office for which he or she is a candidate, that person shall, within 24 hours of the date that the Board certifies said person's election, pursuant to subsection (a)(11) of § 1-1001.05, either resign from the office that person currently holds

or shall decline to accept the office for which he or she was a candidate. In the event that said person elects to resign, said resignation shall be effective not later than 24 hours before the date upon which that person would assume the office to which he or she has been elected.

* * * * * * *

§1—1001.17. Recall process.

(a) The provisions of this section shall govern the recall of all elected officers of the District of Columbia except [the Delegate to the Congress from the District of Columbia] *the Representative in the Congress*.

* * * * * * *

ADDITIONAL VIEWS OF RANKING MEMBER TOM DAVIS

H.R. 1433, legislation to provide for the treatment of the District of Columbia as a Congressional district for purposes of representation in the House of Representatives, is a bipartisan effort to give citizens of the District of Columbia direct representation in the House of Representatives. The legislation has two main features. First, it treats the District as a congressional district for the purpose of granting full House representation. Second, it increases the size of the House by two members. In increasing the size of the House, the bill follows the historic House tradition of increasing representation in a non-partisan manner.

HISTORY

The idea for a federal district arose out of an incident that took place in 1783 while the Continental Congress was in session in Philadelphia. When a crowd of Revolutionary War soldiers, who had not been paid, gathered in protest outside the building, the Congress requested help from the Pennsylvania militia.

The state refused, and the Congress was forced to adjourn and reconvene in New Jersey. After that incident, the Framers concluded there was a need for a Federal District, under solely federal control, for the protection of the Congress and for the territorial integrity of the capital.

So the Framers of the Constitution gave Congress broad authority to create such a Federal District and broad authority to govern such a place. That is the limit of what the Framers say about a Federal District in the Constitution: that there should be a Federal District and that it should be under Congressional authority.

After ratification of the Constitution, one of the first issues to face the new Congress was where to locate this Federal District. Some wanted it in New York, others wanted it in Philadelphia, still others wanted it on the Potomac. These sectional factions fought a fierce political battle to decide the matter because they believed they were founding a great city, a new Rome. They expected this new city to have all the benefits of the great capitals of Europe.

They never once talked about denying that city's inhabitants the right to vote.

Finally, Secretary of State Jefferson brokered a deal that allowed the city to be placed on the banks of the Potomac in exchange for Congress paying the Revolutionary War debt. New York got the debt paid and Philadelphia got the capital for ten years. Then, as now, those political decisions were shaped by the issues of the day.

In 1790, Congress passed the Residence Act, in which the right to vote was given to those residing in the new District. While the capital was being established, however, those living here were permitted to continue to vote where they had before, in their states.

From 1790–1800, District residents were able to vote in Congressional elections in Maryland and Virginia, but not because they were citizens of those states. After all, the cession had ended their political link with those states.[1] Instead, their voting rights derived from Congressional action under the District Clause, recognizing and ratifying ceding states' laws as the applicable law for the now-federal territory until further legislation.[2] Therefore, it was not the cessions themselves but the federal assumption of authority in 1800 that deprived District residents of representation in Congress.

The seat of government officially moved to Washington in 1800. In his final address to the Sixth Congress, less than a week after it took up residence in the new Federal District, President John Adams reminded Members, "it is with you, gentlemen, to consider whether local powers over the District of Columbia vested by the Constitution in Congress * * * shall be immediately exercised."

That one statement explains the nature of the debate to follow.

Once again, the issues of the day shaped the actions of Congress. The political parties could not come to an agreement. The Federalists wanted to ensure strong central control over the city. Anti-federalist Republicans wanted limited authority and distrusted all things urban.

With Jefferson and his Republicans preparing to take control of the presidency and Congress, a pervasive atmosphere of crisis compelled the Federalists into action. If a bill was not passed before the Jeffersonians took over, it never would pass. Eventually, the Congress passed a stripped down version of a bill authored by a Virginia Congressman, "Light Horse Harry" Lee. It simply stated that the laws of Virginia and Maryland then in effect, having been superseded in the District, would still apply.

We may never know why this version was passed. No records survived. But there is no evidence that the Founding Fathers—who had just put their lives on the line to forge a representative government—determined the only way to secure a representative government was to deny representation to some of their fellow citizens. One historian aptly described the process as a "rushed and improvised accommodation to political reality, necessitated by the desperate logic of lame duck political maneuvering."[3] But the inelegant compromise ultimately adopted left a decidedly undemocratic accident in its wake: District residents had no vote in Congress.

As early as 1801, the citizens of the town of Alexandria petitioned Congress to create a functioning municipal government within the District and provide its citizens representation in the House of Representatives.[4] Congress took action during the 20th century to create a municipal government for the District of Columbia, but the national capital remains without voting representation

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[1] See *Downes* v. *Bidwell,* 182 U.S. 244, 260–61 (1901); *Reily* v. *Lamar,* 6 U.S. (2 Cranch) 344, 356 (1805); *Hobson* v. *Tobriner,* 255 F. Supp. 295, 297 (D.D.C. 1966).

[2] Indeed, even after the formal assumption of federal responsibility in December 1800, Congress enacted further legislation providing that Maryland and Virginia law "shall be and continue in force" in the areas of the District ceded by that state. Act of Feb. 27, 1801, ch. 15, §1, 2 Stat. 103.

[3] William C. diGiacomantonio, "'To Make Hay While the Sun Shines': D.C. Governance as an Episode in the Revolution of 1800," Kenneth R. Bowling and Donald R. Kennon, Ed., *Establishing Congress* (Ohio University Press, 2005) page 55.

[4] Petition to Congress, "Memorial of Sundry Freeholders and Inhabitants of the Town of Alexandria, in the District of Columbia," January 26, 1801.

in Congress. Whether the reason for a lack of political representation be political deadlock, inattention or a misunderstanding of the problem, Congress has failed to successfully grant the rights it removed in the Organic Act of 1800.

Our Founding Fathers left us a tool in the Constitution to deal with future problems. The District Clause in the Constitution, Article 1, section 8, clause 17, is there for a reason. Congress reaches the zenith of its power in dealing with issues relating to the District. Over the years, Congress has exercised this power to treat the District as a "State" when necessary to ensure that the citizens of the city have substantially the same rights as all other Americans.

SUPREME COURT RULINGS HOLDING THE DISTRICT TO BE A "STATE" FOR LIMITED PURPOSES

In 1820 the Supreme Court held Congress could impose federal taxes on the District notwithstanding Article I, Section 2, Clause 3 of the Constitution, which provides that "[r]epresentatives and direct taxes shall be apportioned among the several States which may be included within this union * * *" [5]

The Court also found, in 1888, that the Sixth Amendment right to trial by jury extends to the people of the District, even though the text of the Amendment states "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed * * *" [6]

In 1889, the Supreme Court held that the constitutional prohibition against state laws that interfere with commerce "among the several States" applies equally to D.C. municipal statutes that interfere with commerce between the District and states.

In 1934, the Supreme Court found that Congress could treat the District as a state for purposes of the Full Faith and Credit Clause, which provides that "[f]ull faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State." [7]

Thus the Courts have repeatedly found that Congress has the authority to breach any limitation perceived in the word "state" to include the citizens of the District in the protections and duties listed in the Constitution.

CURRENT CONSTITUTIONAL DEBATE

Scholars spanning the political and legal spectrum have concluded that Congress has authority through this legislation to provide voting representation in Congress for local residents. The Constitution gives us all the authority we need. No Constitutional amendment is necessary. What was done by statute in 1790, and then undone by statute in 1800, can be redone by statute today.

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[5] *Loughborough* v. *Blake,* 18 U.S. 317 (1820).

[6] *Callan* v. *Wilson*, 127 U.S. 540, 548 (1888); see also *Capital Traction Co.* v. *Hof,* 174 U.S. 1, 5 (1899) ("It is beyond doubt, at the present day, that the provisions of the Constitution of the United States securing the right of trial by jury, whether in civil or in criminal cases, are applicable to the District of Columbia.").

[7] *Loughran* v. *Loughran,* 292 U.S. 216, 228 (1934).

This is often called the "People's House"—and rightly so. Article I, Section 2 sets forth that, "The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." This stands in contrast to the Senate, which the Constitution states "shall be composed of two Senators from each State."

Some view that section as limiting representation in the House to citizens of "states" as we use the term today. But a more historically correct reading recognizes that the Founders intended that this body represent all enfranchised people in America. It is also important to recall that, at the time the section was drafted, the residents of what would only later become the District of Columbia were among the people of the several states.

Lately, much has been made of the decision in the *National Mutual Insurance Company* v. *Tidewater Transfer Company,*[8] a case which the Congressional Research Service (CRS) suggests limits congressional authority to extend voting representation to citizens of the District. That suggestion is unfounded. The two concurring justices in *Tidewater,* who found the District was a "state" for purposes of diversity jurisdiction, would have similarly concluded that the District is a "state" for purposes of voting representation. Faced with the fact that the Constitution had failed explicitly to accord District residents access to federal courts through diversity jurisdiction, Justice Rutledge remarked, "I cannot believe that the Framers intended to impose so purposeless and indefensible a discrimination, although they may have been guilty of understandable oversight in not providing explicitly against it."

Having concluded that the Framers did not intend to deprive District residents of access to the federal courts, Justice Rutledge reasoned that the term "state" should include the District of Columbia where it is used with regard to "the civil rights of citizens." Access to the federal courts via diversity jurisdiction, he concluded, fell within that ambit.

Contrary to CRS's view, the same is true with respect to the right conferred by H.R. 1433, legislation to provide for the treatment of the District of Columbia as a Congressional district for purposes of representation in the House of Representatives, because the right to vote is among the most fundamental of civil rights. Based on Justice Rutledge's reasoning, the *Tidewater* concurring justices surely would have upheld Congress's determination to redress the indefensible denial of voting representation to District residents.

[8] 337 U.S. 582 (1949).

Throughout our history, we have resolved major differences with balance and principled compromise. In this instance, political balance serves the moral imperative to enfranchise those now without a voting representative in this House. H.R. 1433 is consistent with those great efforts of that past that mark the life and growth of our democracy as a beacon to freedom-seeking peoples all over the world.

TOM DAVIS.

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